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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/333,855	06/15/1999	ALAN A. RAMALEY	13237-2390	4624

7590 02/26/2003

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EXAMINER

PAULA, CESAR B

ART UNIT	PAPER NUMBER
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2178

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/333,855

Applicant(s)

RAMALEY ET AL.

Examiner

CESAR B PAULA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-14 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. This action is responsive to the amendment filed on 12/17/02.

This action is made Final.

2. In the amendment, claims 1-20 are pending in the case. Claims 1, 8, and 15 are independent claims.

Drawings

3. This application has been filed with informal drawings which are acceptable for examination purposes only.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, and 15-20 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly, S.B, hereinafter Kelly, Mastering WordPerfect, pp.284-288 (Sybex, 1987).

Regarding independent claim 1, Kelly discloses saving of temporary files in response of the creation of those temporary files, and assigning a name to those temporary files

({WP}BACK.1,2, etc.) p.284,L.8-22.

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Moreover, Kelly discloses the saving of a file on the screen-volatile memory—to the permanent storage on the computer disk ({WP}BACK.1,2, etc.)p.284,L.8-22.

Furthermore, Kelly teaches the saving, and replacement of the backup files, of an original file, onto separate disks with a final file name in case of failure ({WP}BACK.1,2, etc.)p.284,L.8-37. Kelly fails to explicitly disclose *creating a recovery file comprising information useful for replacing the original files with the replacement files*. It would have been obvious to one of ordinary skill in the art at the time of the invention to have created such recovery file, because Kelly teaches above saving backup file information to replace files in case of a computer failure.

Regarding claim 2, which depends on claim 1, Kelly teaches the changing the original name assigned to a document with the name of the backup file(s) to be used in case of power failure—non-catastrophic failure ({WP}BACK.1,2, etc.)p.284,L.8-22.

Regarding claim 3, which depends on claim 2, Kelly teaches the deleting of the backup file(s) once the file has been successfully renamed p.284,L.8-33. Kelly fails to explicitly disclose *deleting a recovery file*. It would have been obvious to one of ordinary skill in the art at the time of the invention to have deleted such recovery file, because Kelly teaches above deleting backup file information used to replace files after a computer failure.

Regarding claim 4, which depends on claim 1, Kelly teaches the changing the original name assigned to a document with the name of the backup file(s), in case of power failure—non-catastrophic failure, and based upon the determination and detection of a non-identical backup file(s) ({WP}BACK.1,2, etc.)p.284,L.8-22.

Regarding claim 5, which depends on claim 1, Kelly teaches the changing the original name assigned to a document with the name of the backup file(s), in case of computer failure—

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catastrophic failure, and based upon the determination and detection of a non-identical backup file(s) ({WP}BACK.1,2, etc.)p.284,L.8-33. Kelly fails to explicitly disclose *the use of a recovery file*. It would have been obvious to one of ordinary skill in the art at the time of the invention to have deleted such recovery file, because Kelly teaches above deleting backup file information used to replace files after a computer failure.

Claims 6-7 are directed towards a method for implementing the steps found in claims 4-5 respectively, and therefore are similarly rejected.

Regarding independent claim 15, Kelly discloses the recovering of lost data from a computer failure by saving of temporary files in response of the creation of those temporary files, and assigning a name to those temporary files ({WP}BACK.1,2, etc.) p.284,L.8-22.

Moreover, Kelly discloses the determining whether the name of a file has an identical backup file name ({WP}BACK.1,2, etc.)p.284,L.8-22.

Moreover, Kelly teaches the saving, and replacement of the backup files with a final file name in case of failure ({WP}BACK.1,2, etc.)p.284,L.8-33. Kelly fails to explicitly disclose *a primary recovery file...a temporary name and a final name*. It would have been obvious to one of ordinary skill in the art at the time of the invention to have created such recovery file, because Kelly teaches above saving backup file information to replace files in case of a computer failure.

Furthermore, Kelly teaches the saving, and replacement of the backup files with a final file name in case of failure ({WP}BACK.1,2, etc.)p.284,L.8-22. Kelly fails to explicitly disclose *determining whether a catastrophic failure of the file save operation has occurred during an attempt to replace old files with the new files*. It would have been obvious to one of ordinary skill in the art at the time of the invention to have made such determination, because

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Kelly teaches above saving backup file information to replace files in case of a computer failure, failing to save a file catastrophically would consist of a computer failure.

Regarding claim 16, which depends on claim 15, Kelly the editing, and saving of old files, which represent saved, and old files—*opaque and non-opaque files* ({WP}BACK.1,2, etc.) p.284,L.8-22.

Moreover, Kelly discloses the determining whether the name of a file has an identical backup file name ({WP}BACK.1,2, etc.)p.284,L.8-22.

Moreover, Kelly teaches the saving, and replacement of the backup files with a final file name in case of failure ({WP}BACK.1,2, etc.)p.284,L.8-22. Kelly fails to explicitly disclose *a primary recovery file ... old name and a temporary name*. It would have been obvious to one of ordinary skill in the art at the time of the invention to have created such recovery file, because Kelly teaches above saving backup file information to replace files in case of a computer failure.

Furthermore, Kelly teaches the saving, and replacement of the backup files with a final file name in case of failure ({WP}BACK.1,2, etc.)p.284,L.8-22. Kelly fails to explicitly disclose *determining whether a catastrophic failure has occurred during an attempt to replace old files with the new files*. It would have been obvious to one of ordinary skill in the art at the time of the invention to have made such determination, because Kelly teaches above saving backup file information to replace files in case of a computer failure, failing to save a file catastrophically would consist of a computer failure.

Regarding claim 17, which depends on claim 16, Kelly teaches the saving, and replacement of the backup files with a final file name in case of failure ({WP}BACK.1,2, etc.)p.284,L.8-22. Kelly fails to explicitly disclose *determining whether a catastrophic failure*

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has occurred is in response to an attempt to load the new files into volatile memory from a permanent storage. It would have been obvious to one of ordinary skill in the art at the time of the invention to have made such determination, because Kelly teaches above saving backup file information to replace files in case of a computer failure, failing to save a file catastrophically would consist of a computer failure.

Regarding claim 18, which depends on claim 16, Kelly teaches the saving, and detection of the backup files in case of computer failure ({WP}BACK.1,2, etc.)p.284,L.8-22. Kelly fails to explicitly disclose *a primary recovery file*. It would have been obvious to one of ordinary skill in the art at the time of the invention to have created such recovery file, because Kelly teaches above saving backup file information to replace files in case of a computer failure.

Claim 19 directed towards a method for implementing the steps found in claims 15, and therefore is similarly rejected.

Regarding claim 20, which depends on claim 15, Kelly teaches the saving, and detection of the backup files in case of computer failure ({WP}BACK.1,2, etc.)p.284,L.8-22. Kelly fails to explicitly disclose *HTML file*. It would have been obvious to one of ordinary skill in the art at the time of the invention to have utilize such file, because Kelly teaches above saving backup file information to replace files in case of a computer failure, such as would occur in an HTML environment.

Allowable Subject Matter

6. Claims 8-14 allowed.

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Response to Arguments

7. Applicant's arguments filed 12/17/02 have been fully considered but they are not persuasive. Regarding claims 1, and 15, the Applicants submit that Kelly fails to teach a recovery file with a list defining a temporary name and a final name (p.3,L.9-23). The Examiner disagrees, because Kelly teaches the saving, and replacement of the backup files, of an original file, onto separate disks with a final file name in case of failure ({WP}BACK.1,2, etc.)p.284,L.8-37.

Claims 2-7, and 16-20 stand rejected at least based on the same rationale submitted above regarding claims 1, and 15

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bamford et al. (Pat. # 6,507,853, and 5,499,367), Hayashi et al. (Pat. # 5,696,967), Lee (Pat. # 6,405,217), Uchikura et al. (Pat. # JP 61133450 A).

II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cesar B. Paula whose telephone number is (703) 306-5543. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:00 p.m. (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon, can be reached on (703) 308-5186. However, in such a case, please allow at least one business day.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Any response to this Action should be mailed to:

Director United States Patent and Trademark Office

Washington, D.C. 20231

Or faxed to:

- (703) 746-7238, (for **After Final** communications intended for entry)
- (703) 746-7239, (for **Formal** communications intended for entry, **except formal After Final communications**)

Or:

- (703) 746-7240, (for **Informal or Draft** communications for discussion only, please label **"PROPOSED"** or **"DRAFT"**).

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**Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA, Sixth Floor (Receptionist).**

CBP

2/19/03


STEPHEN S. HONG
PRIMARY EXAMINER